

**Policies and Procedures Manual:
Designating Training Providers as Eligible to Receive Federal Workforce Investment Act
Funds
through Individual Training Accounts (ITAs)**

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PURPOSE

Per Section 122 of the Workforce Investment Act (WIA), the Department of Labor and Industrial Relations (DLIR), on behalf of the Governor, is responsible for establishing the procedures, including minimum criteria, for the Local Workforce Investment Boards (LWIBs) to use in designating the training providers who will be eligible to receive WIA Title I funds through Individual Training Accounts (ITAs) in their local areas. This Policies and Procedures Manual supplements Title I-A and B of WIA and its Final Rules (20 CFR Part 652 et al.). The Manual presents the State's policies regarding:

- Individual Training Accounts (ITAs)
- Eligibility of training providers
- Dissemination of the resulting statewide eligible providers list
- Appeals

See these related documents for operational requirements and procedures:

- Instructions for Completing an Application for Long-Term and Short-Term Training Providers (Initial Eligibility), 3/6/02
- Application for Long-Term and Short-Term Training Providers (Initial Eligibility), 3/6/02
- Instructions for Completing an Application for Subsequent Eligibility, date
- Application for Subsequent Eligibility, date

DESIGNATED STATE AGENCY

The Department of Labor and Industrial Relations (DLIR), Workforce Development Division (WDD) is the designated State agency for these procedures.

BACKGROUND

The workforce investment system established under WIA emphasizes informed customer choice, system performance, and continuous improvement. Drafters of this legislation intended to judge the worth of training based on outcomes and customer satisfaction, rather than “seat time” and contracts with “x” number of slots to be filled. Thus, there is performance information on job placement, retention, wages, and skill attainment. In addition, there are Individual Training Accounts (ITAs) and the Consumer Report Card System to allow the customers to comparison shop. Key elements in the eligible provider process are 1) the ability of providers to successfully perform and 2) the degree to which provider information, including performance information, is available to customers through the One-Stop system.

Eligible training providers may serve WIA participants who are adults and dislocated workers. After receiving core and intensive services and developing an individual employment plan in consultation with case managers, eligible WIA participants who need training should be able to make informed choices from the statewide list of eligible providers. Although the list is called eligible *providers*, in fact, it is more specific and lists the qualified training *program(s)* of each provider because it is possible for one provider to have both eligible and ineligible programs.

INDIVIDUAL TRAINING ACCOUNTS (ITAS)

Definition

Individual Training Accounts (ITAs) will be the primary method of funding training services for eligible adults and dislocated workers. An ITA is an account established by a WIA program operator for an eligible customer. ITAs finance programs from eligible training providers [See WIA Reg. 663.410] of training services directly linked to employment opportunities in the area. “Employment opportunities” are those occupations in industries targeted by the LWIBs as desired growth industries for the area as well as the demand occupations pinpointed by employers and projection models. Employment opportunities is a broadly defined term, to allow for targeted growth industries and the diverse aspirations of entrepreneurs.

Exceptions to ITAs

Contracts for services may be used instead of ITAs only when one of the following three exceptions [§134(d)(4)(G)(ii)] applies:

1. On-the-job training (OJT) and customized training. [See WIA §101(8), 101(31), 122(h), 195(4) and WIA Regs 663.700 - 663.720]
2. When the LWIB determines that there are an insufficient number of eligible providers for an ITA system. In such cases, the Local Plan must describe the process to be used in selecting the providers under a contract for services. This process must include a public comment period for interested providers of at least 30 days. [See WIA Reg. 663.430(a)(2)]
3. LWIBs determine that Community Based Organizations (CBOs) or other private organizations offer training services that have demonstrated effectiveness in serving special populations with multiple barriers to employment, i.e., low-income individuals who are included in one or more of the following categories:
 - a. Individuals with substantial language or cultural barriers [Language barriers are broadly defined as all English literacy skills for both non-native and native English speakers.];
 - b. Offenders;
 - c. Homeless individuals;
 - d. Welfare recipients;
 - e. Persons with disabilities;
 - f. Those requiring services for substance abuse;
 - g. Individuals age 55 and older; and
 - h. Migrant and seasonal farm workers.

The LWIB must develop criteria to determine the demonstrated effectiveness. See WIA Reg. 663.430(a)(3) for the required LWIB procedures.

State Policies Applicable to ITAs

1. ITAs may cover the costs of items available through the selected eligible training provider. Specifically, the items can only include:
 - a. Tuition and fees for training courses required to prepare a customer for a job;
 - b. Textbooks, supplies, uniforms, and necessary training materials;
 - c. Testing fees for certification; and
 - d. Admission examinations.
2. If the customer qualifies for any type of financial aid awards, the awards are first applied towards the training cost before ITAs are provided. The customer will not be *required* to take out student loans.
3. An individual may select training that costs more than the maximum amount available for ITAs when other sources of funds (e.g., Pell Grants, scholarships, severance pay) are available to supplement the ITA.
4. The One-Stop Operator, on behalf of the partners' case managers, arranges for paying the training costs and deducting the costs from the customer's ITA balance.
5. ITAs will comply with applicable county, state, and federal procurement laws.

LWIB Procedures for ITAs

LWIBs will develop their own procedures, which will be described in their local five-year WIA plans. [Refer to WIA Regs. 661.350(a)(3) and (5)] At minimum, the procedures must address:

1. Any limits the LWIBs choose on the dollar amount, duration, number and scope of ITAs for individuals;
2. Procedures for paying the training providers; LWIBs may decide what portion to pay before the course is completed.
3. How ITA expenditures will be controlled and tracked;
4. How a customer will be able to complete training planned if the applicable training program is removed from the list of eligible training providers before that customer completes training; and
5. If the local area will use exceptions to ITAs (See page 3).

ELIGIBLE TRAINING PROVIDERS LIST

The Eligible Training Providers list includes:

1. Those training providers and community-based organizations with whom LWIBs have written contracts for services as exceptions to ITAs [refer to items 2 and 3 on page 3 of this Policies and Procedures Manual and WIA Regulation 663.430(a)(2) and (a)(3)]. When the contracts are executed, the LWIBs notify Career Kokua.
2. Those training providers who apply and are selected to be placed on the list so that WIA customers may use ITAs to choose appropriate training; specifically:
 - a. Postsecondary institutions that are eligible to receive federal student aid funds (Title IV of the Higher Education Act of 1965) and provide programs that lead to an associate degree, baccalaureate degree, or certification, must submit an application, listing all programs seeking initial eligibility. Non-credit courses may be included in these programs. The application is submitted to the LWIB(s) in the local area(s) where the institution desires to deliver training services. Initial eligibility for these programs will be automatic unless the LWIB determines that there is an error in the application. Their “initial date of eligibility” will be July 1. These postsecondary institutions can amend their applications to include additional programs and additional geographic areas throughout the initial eligibility.
 - b. Training providers that provide apprenticeship programs registered under the National Apprenticeship Act must submit an application listing all programs seeking initial eligibility to the LWIB(s) in the local area(s) where the provider desires to deliver training services. Initial eligibility for these programs will be automatic unless the LWIB determines that there is an error in the application. Their “initial date of eligibility” will be the date the program is placed on the statewide eligible list. These apprenticeship programs can amend their applications to include additional programs and additional geographic areas throughout the initial eligibility.
 - c. Long-Term Training Providers may apply to the LWIB(s) in the local area(s) where the provider desires to deliver training services. These providers can amend their applications to include additional geographic areas throughout the initial eligibility.

Long-Term Training is defined as a program consisting of a course or courses that upon successful completion, leads to:

- A certificate, an associate degree, baccalaureate degree, or
- The skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.

There are three types of long-term training programs:

- a. Individual course with a duration of 61 hours or more that does not meet b. below (the program is the name of the course). However, if the LWIB/County determines that a course with a duration of 61 hours or more is prevocational in nature, the LWIB/County may classify the course as short-term training. (See definition for short-term training below.)
- b. A course from a group of courses that is intended to lead a participant to a post-secondary degree from an accredited institution (the program is the major course of study in which the degree will be awarded); or
- c. Individual course with a duration of fewer than 61 hours that does not meet b. above, is intended to result in an industry-recognized certification required for a job or group of jobs, and is approved by the LWIB/County as a course that qualifies as long-term training (the program is the name of the certification). The LWIB/County also has the discretion to determine if an individual course with a duration of fewer than 61 hours that does not meet b. above and that is not necessarily intended to result in an industry-recognized certification should be considered to be long-term training (the program is the name of the course).

Promulgation of List: The Eligible Training Providers List is posted electronically on the Consumer Report Card System (CRCS) at www.state.hi.us/dlir/rs/loihi/CRCS/INDEX.HTM. It includes information on each WIA-eligible program, including performance data for five or more students. Whenever a statistic involves fewer than five people, the CRCS displays "<5"; this protects the confidentiality of individuals.

The Eligible Training Providers list does not include:

1. Short-Term Training, which is defined as a course or courses that:
 - Provides occupational skills that are prevocational in nature, such as computer literacy;
 - Has a duration of fewer than 61 hours (Exception: if the LWIB/County determines that a course with a duration of 61 hours or more is prevocational in nature and does not meet the other criteria for long-term training, the LWIB/County may classify the course as short-term training); and
 - Does not meet the criteria for long-term training.
2. Training providers who provide on-the-job and customized training according to employer specifications (refer to item 1 on page 4 of this Policies and Procedures Manual).

SELECTION PROCEDURES

There are different procedures for "initial" eligibility and for "subsequent" eligibility of training providers. At first, the intent is to provide maximum choice to the consumer, with sufficient information about the trainers for the consumer to make an intelligent decision. Only one performance standard is required for initial eligibility. However, to remain on the eligible list, all training providers, including those with "automatic initial eligibility", must meet or exceed certain performance levels.

Performance Definitions

"Certificate" or "Credential", for the purposes of meeting performance standards for eligible training providers, is a document awarded by the training provider to a participant if that participant has demonstrated through an evaluation and assessment process that a majority of the program's documented learning objectives has been achieved at a level of competency set by the provider.

"Completion" of long-term training means one of the following:

- a. For an individual course, it means that course was completed in the period being measured. If a participant completes two or more courses per provider in the period being measured, each completion will be counted. (The next two periods to be measured are July 1, 2002 to June 30, 2003 and July 1, 2003 to June 30, 2004.)
- b. For an individual course with a duration of 61 hours or more that does not meet c. below and which the LWIB/County deems to be long-term training, completion will be defined by the provider.
- c. For a course from a group of courses that is intended to lead a participant to a post-secondary degree from an accredited institution, completion will be defined as the participant's receipt of a post-secondary degree.
- d. For an individual course with a duration of fewer than 61 hours that does not meet c. above, is intended to result in an industry recognized certification required for a job or group of jobs, and is approved by the LWIB/County as a course that qualifies as long-term training, completion of that course will be defined by the provider. The provider also will define completion of a course with a duration of fewer than 61 hours, does not meet c. above, that is not necessarily intended to result in an industry recognized certification, and is approved by the LWIB/County as long-term training.

"Course" is defined as a single lecture or series of lectures that may include practical experience or self-study. For example, Accounting 101 is a course that takes place over a semester; and Certified Nurse's Aid training may be a course consisting of a combination of several lectures conducted on different days and a specified number of hours of practical experience.

Initial Eligibility

Eligibility Period

Initial eligibility will be for up to two years; e.g., July 1, 2000-June 30, 2002; July 1, 2001-June 30, 2003; etc. WIA Reg. 663.530 allows this option when sufficient performance data cannot be collected in a shorter time. The State finds that Career Kokua is not able to calculate a) the percentage of *all* individuals enrolled who obtained unsubsidized employment; and b) the average wages at the time *all* individuals became employed, using the wage records of the Unemployment Insurance system and program information supplied by the training provider, due to the time lag of the Unemployment Insurance Wage Records Cycle. Therefore, those two indicators cannot be collected from initial applicants.

There will be an annual solicitation for programs to become initially eligible, effective on the upcoming July 1. If a program is approved after the possible July 1st effective date, its eligibility ends on the June 30th applicable to that solicitation period. The period of initial eligibility for all programs (no matter when they were individually added) of one provider will end on the same date.

State Criteria

1. Complete, detailed selection criteria are presented in the document, "Instructions for Completing an Application for Long-Term and Short-Term Training Providers (Initial Eligibility)", 3/6/02
2. Licensing: State law requires significant consumer protection through its licensing requirements. Training providers must be registered or licensed with the State Department of Commerce and Consumer Affairs if applicable (i.e., Massage, Cosmetology or Real Estate); approved by the Federal Aviation Administration (FAA) if a pilot or aviation school; a trade, vocational, or technical school licensed by the State Department of Education (DOE) unless exempt; or accredited by a recognized accrediting body.
3. Distance Learning: The only distance learning programs that can be eligible are offered by institutions that are fully accredited by a recognized accrediting body. The student and teacher are not place-bound or time-bound in "distance learning programs."
4. Performance Standard: Programs currently offered must have had a minimum completion rate of 35 percent of all individuals enrolled within the last two years. Data are subject to verification by DLIR. If the data are unavailable, the provider shall use sampling procedures described in the document, "Application for Long-Term and Short-Term Training Providers (Initial Eligibility)", 3/6/02.
5. LWIBs may add additional criteria; however, if collection of the additional information imposes extraordinary costs on providers, the LWIB must provide cost-effective methods for the collection of the information involved. The State is providing Career Kokua's resources to assist providers in the required collection of employment and wage information from Unemployment Insurance records.

Subsequent Eligibility

All eligible training providers, including those who gained automatic initial eligibility, must submit applications for subsequent eligibility of each program they wish to continue to provide. Eligible programs that have been re-named must apply for subsequent eligibility. Failure to apply for subsequent eligibility will result in the training provider's removal from the list. (Any new programs that a training provider wants to have designated as eligible must go through the process for initial eligibility.) Retaining a training provider on the statewide list of eligible training providers is similar to continuing a contract with a successful vendor. Subsequent eligibility is for one year.

Performance Standards for Subsequent Eligibility, 2001-2002

By January of each year, the State Workforce Development Council (WDC) will determine the minimum "appropriate levels of performance" that training providers must achieve to be subsequently eligible. All LWIBs have agreed that the same performance levels will be applied across the state and will not be adjusted based on local economic conditions and demographics. All performance information supplied by the providers are subject to verification by DLIR.

1. For all individuals (WIA participants **and** non-WIA students) enrolled in the approved program that had at least five (5) WIA participants:

| The provider shall meet one (1) of the following three (3) indicators: | | Minimum Standard |
|---|--|-------------------------|
| (a) | Program-specific completion rates for all individuals enrolled in the program; | 35 percent |
| (b) * | Percentage of all individuals enrolled in the program who obtained unsubsidized employment; or | 15 percent |
| (c) * | Average quarterly wages at the time that all individuals became employed. | \$2,520.00 |

2. For WIA participants only:

| ¹ The provider shall meet two (2) of the following four(4) indicators: | | Minimum Standard |
|--|--|-------------------------|
| (a) * | Percentage of WIA participants who completed the program and obtained unsubsidized employment | 15 percent |
| (b) * | Retention rate of WIA participants in unsubsidized employment who have completed a program, six months after the first day of employment; | 20 percent |
| (c) * | Average quarterly wages of WIA participants in unsubsidized employment who have completed a program, six months after the first day of employment; or | \$2,520.00 |
| (d) | If applicable, the rate of Hawaii-recognized or industry-recognized licensure or certification, degrees or equivalents, academic credit, or other measures of skills attained by all WIA participants who completed the program. | 12 percent |

- ¹ These "WIA-only" performance standards are waived if an approved program had fewer than five (5) WIA participants who completed the program during the period of eligibility, or had fewer than five (5) WIA participants who completed an approved program and obtained unsubsidized employment during the period of eligibility.
- * The Department of Labor and Industrial Relations, Research and Statistics Office, Career Kokua, will use the Unemployment Insurance wage records to calculate employment and wage data as required by the WIA.

Decision

Approval

1. LWIBs prepare lists of approved eligible programs by provider, including the performance and cost information. LWIBs submit the lists to DLIR's Workforce Development Division, at least 30 days prior to the desired effective date. The cover letters transmitting the lists must be signed by the LWIB chairs.
2. Within 30 days, DLIR/WDD reviews the lists of eligible programs submitted by the LWIBS to determine if the programs meet the established performance levels. If DLIR takes no action within 30 days, the program is automatically eligible.
3. DLIR/WDD informs the LWIBs and Career Kokua which programs were determined eligible for the State List of Eligible Training Providers.
4. Each LWIB notifies training providers and the One-Stop Operator of the eligible training providers. LWIBs remind providers of the timetable for submitting performance information and applications for subsequent eligibility. LWIBs also remind providers what the requirements for subsequent eligibility are and that the appropriate performance levels are set each January.

Disapproval

1. LWIBs and DLIR/WDD must document the rationale for decisions to disapprove programs for the eligible list.
2. Within one day after DLIR/WDD determines that a training provider's application does not meet the eligibility criteria, DLIR/WDD notifies the pertinent LWIB(s).
3. Procedures for Ineligible Providers (below) and Appeal (page 12) apply.

INELIGIBLE PROVIDERS

Those training providers who apply, but for some documented reason are not eligible to be placed on the statewide list of eligible training providers, may reapply, as well as appeal. Those training providers who are removed from the list may reapply after the one-year termination period, as well as appeal.

1. If a training provider is not granted initial eligibility, the provider may reapply for initial eligibility at the next solicitation.
2. If a training provider, initially eligible, is not granted subsequent eligibility, the provider may apply for initial eligibility after one year has passed. The provider will not qualify for automatic eligibility.
3. If, after consultation with the involved LWIB, DLIR determines that a provider intentionally supplied inaccurate information for eligibility determination, the provider's eligibility will be terminated for two years. The terminated provider will be liable for repayment of all adult and dislocated worker funds received during the period of noncompliance. After two years, the provider may apply for initial eligibility.
4. If DLIR or the LWIB, working with DLIR, determines that a training provider substantially violates any WIA requirement, the LWIB may terminate the provider's eligibility for at least one year or take other appropriate action. If eligibility is terminated, the provider is liable for repayment of all adult and dislocated worker funds received during the period of noncompliance. After the end of the termination period, the provider may apply for initial eligibility.

Notification of Ineligibility or Termination

1. Within 10 days after a LWIB determines, or receives notice that DLIR/WDD has determined, that a training provider's application does not meet the eligibility criteria, or that a provider's eligibility should be terminated, the LWIB issues a denial or termination notice to the training provider. A notice is issued listing each training program denied or terminated.
2. The notice is mailed to the training provider at the address listed on the application and to the attention of the contact person identified on the application. The notice clearly:
 - a. Displays the "date mailed";
 - b. Identifies the program that was denied or terminated;
 - c. States specific reason(s) for the action; and
 - d. States that the training provider has the right to appeal to the LWIB within 14 calendar days of the date the notice is mailed.
3. The LWIB sends a copy to DLIR/WDD.

APPEAL PROCEDURE

ENTIRE APPEAL PROCEDURE BEING REVIEWED

1. To appeal a termination or denial of eligibility, the training provider must file the written appeal with the LWIB within 14 calendar days of the date the notice was mailed. Throughout this appeal procedure, “LWIB” refers to “the LWIB or its designee”. An appeal does not affect the selection of other providers.

2. Administrative reconsideration:

Within 10 working days of the receipt of the appeal, the LWIB will review the appeal and may reverse the original decision if an administrative error was made or if additional information submitted by the training provider changes the basis on which the original decision was made.

- a. If the LWIB reverses its prior decision of termination or denial of eligibility, the LWIB will:

- 1) Forward the written decision, with the basis for the decision, and a copy of the appeal file to DLIR;
- 2) Notify the training provider in writing of the decision and its basis and that the LWIB has notified DLIR; and
- 3) Return to Initial or Subsequent Eligibility process.

- b. If the LWIB decides to continue to deny eligibility

Within 10 working days of deciding not to reverse its original decision, the LWIB informs the training provider in writing 1) of the decision and its basis; and 2) how to appeal to a hearing officer.

3. Formal appeal

- a. Within 10 working days from the date the decision from 2.b. above was mailed, the training provider may file a formal appeal.
- b. Within 30 calendar days of the receipt of the formal appeal, a hearing officer from the Employment Security Appeals Referees’ Office will:
 - 1) Conduct a hearing at which the training provider and the LWIB or DLIR (as appropriate) will be allowed to present their cases; no new information will be allowed;
 - 2) Decide the case based on the review of the written record and the hearing arguments; and

- 3) No later than 30 working days of the conclusion of the hearing, issue a written decision to the training provider, the LWIB, and DLIR. The hearing officer's decision will be final and conclusive.
- c. If the hearing officer reverses the denial, the LWIB and DLIR will comply with the decision in a prompt and efficient manner. Procedures will be followed for designating the training provider as eligible, inclusion of the training provider's program on the statewide list, and written notification to the training provider.